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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

HENRY BESERRA, JR.,

Defendant and Appellant.

B262130

(Los Angeles County Super. Ct.
No. VA094143)

APPEAL from a judgment of the Superior Court of Los Angeles County, Michael Cowell, Judge. Affirmed.

Melissa L. Camacho-Cheung, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Henry Beserra, Jr., is serving a state prison term of 19 years after his conviction by jury of dissuading a witness (Pen. Code, § 136.1, subd. (a)(2))¹ with further findings he committed the offense for the benefit of a criminal street gang (§ 186.22, subd. (b)) and had been previously of a qualifying offense under the three strikes law (§§ 1170.12, subds. (a)-(d) and 667, subds. (b)-(i).)² On December 30, 2014, the trial court denied defendant's petition for resentencing as a misdemeanor under the ameliorative provisions of Proposition 47 (entitled "The Safe Neighborhoods and Schools Act").

Defendant filed a timely notice of appeal from the order denying the petition for resentencing under Proposition 47. This court appointed counsel for defendant on appeal. Appointed counsel filed a brief raising no issues, but requesting this court to independently review the record for arguable contentions pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Defendant was advised on his right to file a supplemental brief within 30 days. No brief has been received from defendant.

We have completed our independent review of the record. There are no arguable appellate issues. Misdemeanor resentencing under Proposition 47 is available to "[a] person currently serving a sentence for a conviction" under "Sections 11350, 11357, or 11377 of the Health and Safety Code, or Section 459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code." (§ 1170.18, subd. (a).) Defendant is not eligible for resentencing under Proposition 47 because section 136.1, subdivision (a)(2), is not among the offenses specified in section 1170.18, subdivision (a). The trial court properly denied the petition for resentencing.

¹ All statutory references are to the Penal Code, unless otherwise stated.

² The trial court dismissed a second qualifying conviction under the three strikes law at the time of sentencing.

The judgment is affirmed. (*Smith v. Robbins* (2000) 528 U.S. 259.)

KRIEGLER, J.

We concur:

TURNER, P. J.

KIRSCHNER, J. *

* Judge of the Los Angeles County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.